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**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF NEVADA**

In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.	Case No. BK-S 06-10725 (LBR) Case No. BK-S 06-10726 (LBR) Case No. BK-S 06-10727 (LBR)
In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.	Case No. BK-S 06-10728 (LBR) Case No. BK-S 06-10729 (LBR)
In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC Debtor.	Chapter 11
In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.	Jointly Administered Under Case No. BK-S-06-10725 LBR
In re: USA SECURITIES, LLC, Debtor	MOTION FOR ORDER SHORTENING TIME FOR HEARING ON LIBERTY BANK'S MOTION PURSUANT TO FED. R. BANKR. P. 3018 TO ALLOW CLAIM FOR PLAN VOTING PURPOSES
Affects: <input checked="" type="checkbox"/> All Debtors <input type="checkbox"/> USA Commercial Mortgage Company <input type="checkbox"/> USA Securities, LLC <input type="checkbox"/> USA Capital Realty Advisors, LLC <input type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC <input type="checkbox"/> USA First Trust Deed Fund, LLC	

**MOTION FOR ORDER SHORTENING TIME FOR HEARING ON
LIBERTY BANK'S MOTION PURSUANT TO FED. R.
BANKR. P. 3018(a) TO ALLOW CLAIM FOR PLAN VOTING PURPOSES**

Liberty Bank ("Liberty"), by and through its undersigned attorneys, moves this Court pursuant to District of Nevada Local Bankruptcy Rule 9006 ("LR 9006") for order shortening time for hearing on Liberty Bank's Motion Pursuant to Fed. R. Bankr. P. 3018(a) to Allow Claim for Voting Purposes (the "3018 Motion").¹ In support of this motion, Liberty respectfully represents the following:

Request for an Expedited Hearing and to Shorten Notice Period

In accordance with LR 9006(a), this motion is supported by the following attachments which are incorporated herein by reference:

- a. A copy of the 3018 Motion is attached hereto as **Exhibit "A"**;
- b. The Affidavit of Steven E. Ostrow in Support of 3018 Motion (the "**Ostrow Affidavit**"), explaining why an expedited hearing is necessary, is attached hereto as **Exhibit "B"**; and
- c. An Attorney Information Sheet for Proposed Order Shortening Time in connection with the 3018 Motion is attached hereto as **Exhibit "C."**

As set forth in the Ostrow Affidavit, Liberty timely filed a proof of claim, designated Proof of Claim No. 1383, in the amount of \$4,662,620.45 (the "Claim") in the bankruptcy case of USA Commercial Mortgage Company ("USACM").² On December 11, 2006, Liberty submitted a ballot rejecting the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization (the "Plan") and filed Liberty Bank's Limited Objection to Debtors' Third Amended Joint Chapter 11 Plan of Reorganization (the "Confirmation Objection").

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed in the 3018 Motion.

² The basis for the Claim is discussed in detail in the 3018 Motion. A true and correct copy of the Claim is attached as Exhibit "C" to the 3018 Motion.

1 Also on December 11, 2006 – the same day Liberty cast its ballot and filed its
2 Confirmation Objection – USACM filed USA Commercial Mortgage Company’s Objection to
3 Proof of Claim No. 1383 Filed by Liberty Bank (the “Claim Objection”), seeking to disallow the
4 Claim in its entirety.
5

6 The hearing on confirmation of the Debtor’s Plan (the “Confirmation Hearing”) is
7 scheduled for December 19, 2006, while the Claim Objection is not scheduled to be heard until
8 January 17, 2007. Accordingly, the Claim Objection clearly will not be adjudicated before the
9 Confirmation Hearing. Given that USACM filed the Claim Objection just eight days before the
10 Confirmation Hearing, expedited consideration of the 3018 Motion is warranted.

11 Prior to the filing of the Claim Objection, the Claim was “deemed allowed” as
12 contemplated by 11 U.S.C. § 502(a), and Liberty had the right to vote to accept or reject
13 confirmation of the Plan. As a result of the Claim Objection, however, Liberty’s ballot will not
14 be considered unless it obtains relief under Bankruptcy Rule 3018 prior to the Confirmation
15 Hearing. Permitting Liberty to “be ‘ambushed’ into surrendering its voting rights” by a last-
16 minute claim objection “would run counter to the very equities upon which this court must
17 fundamentally operate.” *Stone Hedge Props. v. Phoenix Capital Corp. (In re Stone Hedge*
18 *Props.)*, 191 B.R. 59, 64 (Bankr. M.D. Pa. 1995).

19 As set forth in the Ostrow Affidavit, *see* Exhibit “B,” and Attorney Information Sheet,
20 *see* Exhibit “C,” on December 13, 2006, Mr. Ostrow telephoned Steven C. Strong, an attorney
21 for USACM, to discuss the Confirmation Objection and USACM’s Claim Objection. Mr.
22 Ostrow told Mr. Strong that, in light of the Claim Objection, Liberty intended to seek the
23 temporary allowance of the Claim and would file its 3018 Motion on an expedited basis so that
24 the issue could be addressed prior to or in conjunction with the Confirmation hearing. Mr.
25 Strong indicated that USACM had no objection to the Court hearing the 3018 Motion on
26 shortened time at the Confirmation Hearing on December 19, 2006. Accordingly, USACM
27 consents to Liberty’s request for expedited consideration of the 3018 Motion.
28

1 WHEREFORE, Liberty respectfully requests that this Court (i) grant its request for
2 expedited consideration; (ii) hear the 3018 Motion on December 19, 2006 at the Confirmation
3 Hearing; and (iii) grant such other and further relief as is just.
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5 BY: **HANEY, WOLOSON & MULLINS**
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